

| | | | |
|-------------------------------|-----------------|-------------------|--|
| Notice of Allowability | Application No. | Applicant(s) | |
| | 09/862,502 | DITTRICH, GERHARD | |
| | Examiner | Art Unit | |
| | CRISTINA SHERR | 3685 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Board of Patent Appeals and Interferences' DECISION ON APPEAL, mailed March 31, 2009.
2. ☒ The allowed claim(s) is/are 8-10, 14-25.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

Art Unit: 3685

1. This communication is in response to the Board of Patent Appeals and Interferences' DECISION ON APPEAL, mailed March 31, 2009. Claims 8-29 are pending in this case.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

3. Authorization for this examiner's amendment was given in a telephone interview with Felix D'Ambrosio, Reg. No. 25,721 on September 29, 2009.

4. The claims have been amended as follows:

8. A method for providing measured values for end customers, comprising the steps of:
~~recording a measured value for a process variable using a sensor S1, S2, S3;~~
~~transmitting the measured value to a process control system PLS; counting the number of transmission operations; and~~
~~calculating the costs for the end customer on the basis of the number A of the transmission operations.~~
recording a process variable by a measured value pick-up device wherein the device, a converter, a computer unit and a communication unit are part of a sensor;
digitizing the process variable into a measured value by the converter connected to the device via a first data line;
transmitting the measured value from the converter to the computer unit;
transmitting the measured value from the computer unit to the communication unit over a second data link;

Art Unit: 3685

receiving by the sensor a request for the measured unit from a process control unit;
converting the measured value by the communication unit into a telegram and
transmitting the telegram from the sensor to the process control unit wherein the
telegram comprises the measured value, data bus address of the sensor S and a data
bus address of the process control system; and
counting and storing the number of measured values transmitted from the sensor to the
process control unit by the computer unit.

9. The method as defined in claim 8, wherein the ~~data transmission between~~
~~sensor S1, S2, S3 and the process control system PLS takes place in line conducted~~
~~fashion, using, for example, a data bus system DBS.~~ transmitting steps between the
sensor and the process control system are conducted over a data bus system DBS.

10. The method as defined in claim 8, wherein the ~~data transmission between~~
~~sensor S1, S2, S3 and the process control system PLS takes place by radio.~~ transmitting steps between the sensor and the process control system are conducted by
radio.

Claims 11-13 (Canceled)

14. The method as defined in claim 8, wherein the ~~number A is stored in~~
~~process control system PLS.~~ further comprising the step of storing the number of
measured values transmitted in the process control system.

15. The method as defined in claim 9, wherein the ~~number A is stored in~~
~~process control system PLS.~~ further comprising the step of storing the number of
measured values transmitted in the process control system.

16. The method as defined in claim 8, wherein the ~~measured values are~~
~~transmitted over the internet from the sensor S1, S2, S3 to a database at the field~~

Art Unit: 3685

~~transmitter manufacturer, to which data base at the end customer likewise has access over the internet, and wherein the number of database access operations by the end customer to this database is counted.~~ further comprising the step of transmitting the number of measured values over the internet from the sensor to a database at a field transmitter manufacturer.

17. ~~The method as defined in claim 9, wherein the measured values are transmitted over the internet from the sensor S1, S2, S3 to a database at the field transmitter manufacturer, to which data base at the end customer likewise has access over the internet, and wherein the number of database access operations by the end customer to this database is counted.~~ further comprising the step of transmitting the number of measured values over the internet from the sensor to a database at a field transmitter manufacturer.

18. ~~The method as defined in claim 10, wherein the measured values are transmitted over the internet from the sensor S1, S2, S3 to a database at the field transmitter manufacturer, to which data base at the end customer likewise has access over the internet, and wherein the number of database access operations by the end customer to this database is counted.~~ further comprising the step of transmitting the number of measured values over the internet from the sensor to a database at a field transmitter manufacturer.

19. ~~The method as defined in claim 11, wherein the measured values are transmitted over the internet from the sensor S1, S2, S3 to a database at the field transmitter manufacturer, to which data base at the end customer likewise has access over the internet, and wherein the number of database access operations by the end customer to this database is counted.~~ further comprising the step of transmitting the number of measured values over the internet from the sensor to a database at a field transmitter manufacturer.

Art Unit: 3685

20. The method as defined in claim 12, wherein the measured values are transmitted over the internet from the sensor S1, S2, S3 to a database at the field transmitter manufacturer, to which data base at the end customer likewise has access over the internet, and wherein the number of database access operations by the end customer to this database is counted. further comprising the step of transmitting the number of measured values over the internet from the sensor to a database at a field transmitter manufacturer.

21. The method as defined in claim 8, wherein the measured values are transmitted by radio from the sensor S1, S2, S3 to a database at the field transmitter manufacturer, to which data base at the end customer likewise has access over the internet, and wherein the number of database access operations by the end customer to this database is counted. further comprising the step of transmitting the number of measured values over radio from the sensor to a database at a field transmitter manufacturer.

22. The method as defined in claim 9, wherein the measured values are transmitted by radio from the sensor S1, S2, S3 to a database at the field transmitter manufacturer, to which data base at the end customer likewise has access over the internet, and wherein the number of database access operations by the end customer to this database is counted. further comprising the step of transmitting the number of measured values over radio from the sensor to a database at a field transmitter manufacturer.

23. The method as defined in claim 10, wherein the measured values are transmitted by radio from the sensor S1, S2, S3 to a database at the field transmitter manufacturer, to which data base at the end customer likewise has access over the internet, and wherein the number of database access operations by the end customer to this database is counted. further comprising the step of transmitting the number of

Art Unit: 3685

measured values over radio from the sensor to a database at a field transmitter manufacturer.

24. The method as defined in claim 11, ~~wherein the measured values are transmitted by radio from the sensor \$1, \$2, \$3 to a database at the field transmitter manufacturer, to which data base at the end customer likewise has access over the internet, and wherein the number of database access operations by the end customer to this database is counted.~~ further comprising the step of transmitting the number of measured values over radio from the sensor to a database at a field transmitter manufacturer.

25. The method as defined in claim 12, ~~wherein the measured values are transmitted by radio from the sensor S1, S2, S3 to a database at the field transmitter manufacturer, to which data base at the end customer likewise has access over the internet, and wherein the number of database access operations by the end customer to this database is counted.~~ further comprising the step of transmitting the number of measured values over radio from the sensor to a database at a field transmitter manufacturer.

Claims 26-29 (Canceled).

Reasons for Allowance

5. The following is the Examiner's statement of reasons for allowance.

6. Regarding the claimed terms, the Examiner notes that a "general term must be understood in the context in which the inventor presents it." *In re Gulag* 283 F.3d 1335, 1340, 62 USPQ2d 1151, 1154 (Fed. Cir. 2002). Therefore the Examiner must interpret the claimed terms as found on pages 1-8 of the specification. Clearly almost all the

Art Unit: 3685

general terms in the claims may have multiple meanings. So where a claim term "is susceptible to various meanings, . . . the inventor's lexicography must prevail" Id.

7. Using these definitions for the claims, the claimed invention was not reasonably found in the prior art.

8. Regarding independent claim 8, the references, Shimura et al (US 6,176,826), Budike, jr., et al (US 6,904,385) and Mulokay et al (US 4,661,914) disclose as previously discussed. The references, however, do not disclose converting the measured value by the communication unit into a telegram and transmitting the telegram from the sensor to the process control unit wherein the telegram comprises the measured value, data bus address of the sensor S and a data bus address of the process control system; For these reasons, independent claim 8 and its dependent claims 9-10 and 14-25 are deemed allowable.

9. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CRISTINA OWEN SHERR whose telephone number is (571)272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin L. Hewitt, II can be reached on (571)272-6709. The fax phone

Art Unit: 3685

number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

13. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Cristina Owen Sherr
Patent Examiner, AU 3685

/Calvin L Hewitt II/
Supervisory Patent Examiner, Art Unit 3685